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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 TARAY TAQWAIN MORRIS,) CASE NO. CV 19-0690-SVW (PJW)
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12 Petitioner,)
13) ORDER DISMISSING HABEAS CORPUS
14 v.) PETITION WITH PREJUDICE AND
15) DENYING CERTIFICATE OF
16 JAMES ROBERTSON, ET AL.,) APPEALABILITY
17)
18 Respondents.)
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16 In April 2001, Petitioner was found guilty in Los Angeles County
17 Superior Court of first degree murder and attempted robbery.
18 (Petition at 2; *Morris v. Lamarque*, CV 03-4093-GHK (Mc), March 30,
19 2004 Report and Recommendation ("2004 Report") at 1.) He was
20 subsequently sentenced to 25 years to life plus an additional life
21 sentence without the possibility of parole. (Petition at 1; 2004
22 Report at 2.) The Superior Court also imposed restitution. In
23 January 2019, Petitioner filed the instant Petition for Writ of Habeas
24 Corpus under 28 U.S.C. § 2254, challenging the state courts' failure
25 to reduce the amount of restitution. (Petition at 6-10¹.) For the
26 following reasons, the Petition is dismissed with prejudice.
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¹ The Court refers to the page numbers generated by the electronic docketing system.

1 The Court has a duty to screen habeas corpus petitions before
2 ordering service on a respondent. See *Mayle v. Felix*, 545 U.S. 644,
3 656 (2005). In doing so, if it plainly appears from the face of a
4 petition that a petitioner is not entitled to relief, the Court can
5 dismiss the petition at the outset. See Rule 4, Rules Governing
6 § 2254 Cases; *Denton v. Hernandez*, 504 U.S. 25, 32 (1992).

7 Petitioner complains that the Superior Court failed to hold a
8 hearing regarding his claim that his restitution was excessive and
9 failed to consider his inability to pay when calculating the amount.
10 (Petition at 6-8.) He also contends that the imposition of
11 restitution constituted an unauthorized sentence and violated various
12 provisions of the federal Constitution. (Petition at 9-10.)

13 Petitioner's claims are not cognizable because they relate solely
14 to restitution, over which the Court does not have habeas
15 jurisdiction. See *Bailey v. Hill*, 599 F.3d 976, 982 (9th Cir. 2010)
16 (holding federal court has no jurisdiction "over a state prisoner's
17 in-custody challenge to a restitution order imposed as part of a
18 criminal sentence."). Because Petitioner alleges only that the
19 restitution order, rather than his custody, violates federal law, his
20 Petition is subject to dismissal with prejudice at this juncture. See
21 *id.* at 980-81 (explaining challenge to restitution order does not call
22 into question lawfulness of conviction or confinement and therefore is
23 not cognizable).² Moreover, because it is clear that no amount of
24 tinkering with the Petition could change the fact that the Court does
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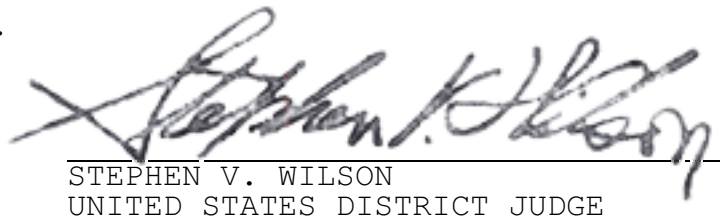
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27 ² Petitioner previously challenged the lawfulness of his
28 conviction and sentence in a 2003 habeas petition, which the Court
denied on the merits in May 2004. See *Morris v. Lamarque*, CV 03-4093-
GHK (Mc), May 13, 2004 Judgment.

1 not have jurisdiction to consider his claims, the Petition is
2 dismissed with prejudice.


3 Finally, because Petitioner has not made a substantial showing of
4 the denial of a constitutional right or that the Court erred in its
5 procedural ruling, Petitioner is not entitled to a certificate of
6 appealability. See 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b);
7 *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*,
8 529 U.S. 473, 484 (2000).

9 IT IS SO ORDERED

10 DATED: April 11, 2019.

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14 STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

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24 Presented by:

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27 PATRICK J. WALSH
UNITED STATES MAGISTRATE JUDGE

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